

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

LINDA D. OLDAKER,

Plaintiff,

v.

Civil Action No.5:08-CV-109

MICHAEL J. ASTRUE,  
Commissioner of Social Security,

Defendant.

**REPORT AND RECOMMENDATION PLAINTIFF'S APPLICATION  
TO PROCEED IN FORMA PAUPERIS BE DENIED**

On June 25, 2008, Linda Oldaker, ["Plaintiff"], filed a complaint under 42 U.S.C. § 405(g) and an Application for Leave to Proceed in forma pauperis. Plaintiff's application reveals she has received no income during the past twelve months, and that her and her spouse's checking account is presently overdrawn. Her application also reveals that her husband is presently employed as a logger and earns between \$800 to \$1500 per month, depending on the weather. Plaintiff and her husband own a home valued at \$50,000, and a 1992 Chevy Lumina valued at \$500. They support a sixteen-year-old son. Plaintiff's and her spouse's monthly expenses total \$1,405.

The Court finds the value of Plaintiff's household income and property is such that she can afford the filing fee.

Accordingly, it is recommended Plaintiff's June 25, 2008 Application to Proceed in forma pauperis be **DENIED**, and Plaintiff be ordered to pay the full filing fee. .

Plaintiff may file, within ten (10) days from the date of this Report and Recommendation,

with the Clerk of Court, written objections identifying those portions of the recommendation to which objection is made, and the basis for such objections. A copy of such objections should also be submitted to the District Court Judge of Record. Failure to timely file objections to this recommendation will result in waiver of the right to appeal from a judgment of this Court based upon such recommendation. 28 U.S.C. § 636(b)(1); Thomas v. Arn, 474 U.S. 140 (1985); Wright v. Collins, 766 F.2d 841 (4th Cir. 1985); United States v. Schronce, 727 F.2d 91 (4th Cir. 1984), cert. denied, 467 U.S. 1208 (1984).

The Clerk is directed to mail a copy of this Report and Recommendation to the plaintiff and counsel of record, as applicable.

DATED: July 18, 2008

/s/ James E. Seibert  
JAMES E. SEIBERT  
UNITED STATES MAGISTRATE JUDGE